IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 8011 of 2007(D)

PETITIONER:

PAPPACHAN K. ELANJIKKAL,
ELANJIKKAL ARCADE, POST OFFICE JUNCTION,
MUNNAR.

BY ADV. SRI.GEORGE ABRAHAM.

RESPONDENTS:
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1. **KERALA STATE ELECTRICITY BOARD,**
   REP. BY ITS SECRETARY, VYDHYUTHI BHAVAN,
   TRIVANDRUM.

2. **THE MANAGER,**
   MUNNAR WORKSHOP, KDHP & CO. (PVT.) LTD.,
   MUNNAR. (FORMERLY TATA TEA LTD.)

3. **ENVIRONMENTAL ENGINEER,**
   KERALA STATE POLLUTION CONTROL BOARD,
   DISTRICT OFFICE, THODUPUZHA.

BY ADV. SRI.JOSEPH KODIANTHARA, FOR R2,
SRI.MITHUN MARKOS,
SRI. M.K. CHANDRAMOHAN DAS FOR R3,
SRI. JOSE J. MATHEICKEL, SC, KSEB FOR R1.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.8011/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE CERTIFICATE DTD. 18/01/2007 ISSUED BY MUNNAR GRAMA PANCHAYATH TO PETITIONER.

EXT.P.2: COPY OF THE COMMUNICATION DTD. 28/12/06 ISSUED BY THE POLLUTION CONTROL BOARD.

EXT.P.3: COPY OF THE PETITIONER'S REPRESENTATION DTD. 08/02/07 TO THE R.3.

EXT.P.4: COPY OF THE PETITIONER'S REPRSENTATION DTD. 08/02/2007 TO THE R.2.

EXT.P.5: COPY OF THE RESIDENTIAL CERTIFICATE ISSUED BY MUNNAR GRAMA PANCHAYATH TO THE PETITIONER.

EXT.P.6: COPY OF THE IDENTITY CARD ISSUED BY ELECTION COMMISSION TO THE PETITIONER.

EXT.P.7: COPY OF THE IDENTITY CARD ISSUED BY ELECTION COMMISSION TO THE PETITIONER'S WIFE.

EXT.P.8: COPY OF THE 1ST PAGE OF RATION CARD ISSUED BY THE TALUK SUPPLY OFFICER, DEVIKULAM TO THE PETITIONER.

RESPONDENT'S EXHIBITS:

EXT.R2.A: COPY OF THE LETTER DTD. 02/01/2007 ISSUED BY THIS RESPONDENT'S PREDECESSOR TO THE POLLUTION CONTROL BOARD.

EXT.R2.B: COPY OF THE LETTER DTD. 23/01/2007 ISSUED BY THIS RESPONDENT'S PREDECESSOR TO THE PETITIONER.

EXT.R2.C: COPY OF THE LETTER DTD. 29/01/2007 ISSUED BY THIS RESPONDENT'S PREDECESSOR TO THE PETITIONER.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 8011 OF 2007-D

JUDGMENT

The petitioner is having a four storeyed building in Munnar town. The rooms in the ground floor and first floor are let out or sold to third parties. The 2nd and 3rd floors are in his possession. The petitioner submits, the 2nd floor is used for running a tourist home and he is residing with his family in the 3rd floor. Recently, the Pollution Control Board issued instructions to the 2nd respondent not to give power supply to the tourist homes, which do not have the waste disposal facility. Based on the said instruction, power supply to the 2nd and 3rd floors of the building were cut off. Later, the petitioner obtained Ext.P2 clarification from the Pollution Control Board to the effect that the earlier direction issued will not stand in the way of restoring power supply to the premises, which is exclusively used for residential purposes and which is having a separate meter. But, when the 2nd respondent refused to restore power supply, this writ petition was filed, seeking appropriate reliefs.

2. The 2nd respondent has filed a counter affidavit, stating that the tourist home is functioning in the 2nd and 3rd floors. The petitioner is not

residing in the 3rd floor. His contentions in this regard are unfounded, it is submitted. The petitioner has filed a reply affidavit, stating that he is residing with his family in the 3rd floor and has produced the residential certificate issued by the Munnar Grama Panchayat, in support of his contention. He has also produced the electoral identity card issued by the Election Commission, wherein the address of the petitioner and his wife is shown as the 3rd floor of the building. He also relies on the ration card issued in the same address.

3. Heard the learned counsel on both sides. Whether the petitioner is using the 3rd floor of his building for residential purposes or not is a disputed question, which cannot be decided by this Court under Article 226 of the Constitution of India. The petitioner may move the Kerala Electricity Grievance Redressal Forum, constituted under Section 42 of the Electricity Act, 2003. If such a motion is made, the same shall be disposed of by the said authority, after hearing both sides and taking evidence, if necessary, without any further delay.

The Writ Petition is disposed of as above.

28th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/